

HB0183S03 compared with HB0183S02

~~{deleted text}~~ shows text that was in HB0183S02 but was deleted in HB0183S03.

inserted text shows text that was not in HB0183S02 but was inserted into HB0183S03.

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~~{Representative Karianne Lisonbee}~~Senator Wayne A. Harper proposes the following substitute bill:

DRIVER LICENSE RECORD AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: ~~{~~Daniel McCay

LONG TITLE

General Description:

This bill requires the Driver License Division to provide notification to each applicant for a driver license or an identification card regarding the disclosure of certain information and the ability to opt out of the disclosure.

Highlighted Provisions:

This bill:

- ▶ requires the ~~{Driver License Division to provide on each application for a driver license or an identification card}~~University of Utah to provide information regarding the disclosure of personal identifying information;
- ▶ provides means for an individual to opt out of certain disclosures to the University of Utah for data collection in relation to genetic and epidemiologic research;

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- ▶ provides means for an individual to remove personal identifying information from the database controlled by the University of Utah;
- ▶ requires audits of the security of the University of Utah database;
- ▶ requires reports to the Transportation Interim Committee; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-109, as last amended by Laws of Utah 2019, Chapter 380

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-3-109** is amended to read:

53-3-109. Records -- Access -- Fees -- Rulemaking.

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may disclose personal identifying information in accordance with 18 U.S.C. Chapter 123:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter;

(iii) to a depository institution as that term is defined in Section 7-1-103;

(iv) to the State Tax Commission for the purposes of tax fraud detection and prevention and any other use required by law;

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(v) subject to Subsection (7), to the University of Utah for data collection in relation to genetic and epidemiologic research; or

(vi) (A) to a government entity, including any court or law enforcement agency, to fulfill the government entity's functions[;]; or

(B) to a private person acting on behalf of a government entity to fulfill the government entity's functions, if the division determines disclosure of the information is in the interest of public safety.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(b)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders;

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an

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indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's:

(A) driving status;

(B) license class;

(C) medical self-certification status; or

(D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may charge fees:

(a) in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) for each document prepared under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee set in accordance with Section 63J-1-504 for each document authenticated; and

(c) established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(b).

(5) Each certified copy of a driving record furnished in accordance with this section is

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admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

(7) (a) The division shall include on each application for ~~or renewal of~~ a license or identification card under this chapter:

(i) the following notice: "The Driver License Division may disclose the information provided on this form to an entity described in Utah Code Ann. Subsection 53-3-109(1)(b)(v)."; and

(ii) a reference to a website created by the ~~{division}~~ University of Utah that provides:

(A) subject to Subsection (7)(~~{b}~~d)(i), a description of what information may be disclosed under Subsection (1)(b)(v);

(B) subject to Subsection (7)(~~{b}~~d)(i), an explanation about ~~{how}~~ the personal identifying information disclosed under Subsection (1)(b)(v) ~~{is used; and~~

~~—— (C) access to a form that an individual may use~~ as described in Subsection (7)(b);

(C) a link to the division website for an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v) ~~{, including instructions}~~; and

(D) a link to the division website for an online form for the individual to ~~{submit the form in person to the division.~~

~~—— (b) The division:~~

~~—— (i) {affirmatively choose to remove any personal identifying information from the database controlled by the University of Utah described in Subsection (1)(b)(v).~~

(b) The explanation on the website described in Subsection (7)(a)(ii)(B) shall include the following information:

(i) how the information is used;

(ii) how the information is secured;

(iii) the methods and timing of anonymizing the information;

(iv) how long the information is retained;

(v) who has access to the information; and

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(vi) the research techniques and purposes for which the information is used.

(c) The University of Utah shall create the website described in Subsection (7)(a)(ii) before July 1, 2020.

(d) (i) The University of Utah shall consult with the ~~{University of Utah}~~ division to create the description and explanation described in ~~{Subsections}~~ Subsection (7)(a)(ii) ~~{(A) and (B)}~~; and

~~— (ii) };~~

(ii) In the course of business, the division shall provide information regarding the disclosure of personal identifying information, including providing on the division website a link to the website created under Subsection (7)(a)(ii) to provide individuals with information regarding the disclosure of personal identifying information under Subsection (1)(b)(v).

(e) (i) The division may not disclose the personal identifying information under Subsection (1)(b)(v) if an individual opts out of the disclosure as described in Subsection (7)(a)(ii)(C).

(ii) Pursuant to Subsection (7)(a)(ii)(D), if an individual affirmatively chooses to remove personal identifying information from a database controlled by the University of Utah as described in Subsection (1)(b)(v):

(A) the division may not disclose any personal identifying information under Subsection (1)(b)(v); and

(B) the University of Utah may not use and shall immediately destroy all personal identifying information related to the individual.

(f) (i) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall conduct an audit and issue a report on:

(A) procedures and safeguards utilized by the University of Utah related to the security of personal identifying information disclosed pursuant to Subsection (1)(b)(v); and

(B) potential risks of disclosure or breaches in the security of personal identifying information disclosed pursuant to Subsection (1)(b)(v).

(ii) The Office of the Legislative Auditor General shall provide the report described in Subsection (7)(f)(i) to the Transportation Interim Committee before October 31, 2020.

(g) The University of Utah shall contract with a third party to biennially conduct information security audits of the data received pursuant to Subsection (1)(b)(v).

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(h) The University of Utah shall provide a report to the Transportation Interim Committee before October 31, 2020 regarding the requirements of this Subsection (7).

~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

- (a) what information shall be included in a report on the driving record of a person;
- (b) the form of a report or copy of the report which may include electronic format;
- (c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;
- (d) the form of a signature required under this chapter which may include electronic format;
- (e) the form of written request to the division required under this chapter which may include electronic format;
- (f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(b); and
- (g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

~~[(8)]~~ (9) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.